

**FUNERAL DIRECTORS EXAMINING BOARD
MINUTES
MADISON, WISCONSIN
MAY 8, 2001**

PRESENT: Roy Pfeffer, Peter Schils, W. Robert Cress, Rick Unbehaun, and Bonnie Gift

EXCUSED: Daniel Densow

STAFF PRESENT: Clete Hansen, Jacquelynn Rothstein, Legal Counsel; Department staff and Division of Enforcement staff for portions of the meeting

GUESTS: Mark Paget, WFDA, until 12:45
Ashley Moore, FSA, until 12:30
Mark McCool, WBVA, until 12:45
Jeffrey D. Ward until 11:30

CALL TO ORDER

The meeting was called to order at 9:33 a.m. by Roy Pfeffer, Chair. A quorum of five members was present.

AGENDA

MOTION: Peter Schils moved, seconded by Rick Unbehaun, to adopt the agenda, as published. Motion carried unanimously.

MINUTES (3/27/01)

MOTION: Rick Unbehaun moved, seconded by Bonnie Gift, to approve the minutes, as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Oscar Herrera, Secretary

Secretary Oscar Herrera came to the Board meeting at 10:15 a. m., following a meeting with another professional association. He introduced himself and said that he is looking forward to working with the Board. He thanked the Board members for their services.

Bureau Director's Report

Clete Hansen referred to a variety of additional materials that were included in the red Board member folders.

Board Roster

The Board received an updated roster. Noted.

2001 Meeting Dates

The Board received an updated copy of the 2001 meeting dates. Noted.

To-Pass Folder

The To-Pass Folder was circulated and duly noted.

To-Do List

Noted.

LEGISLATIVE UPDATE

Regulation of Crematories

Biennial Budget Bill

Hansen informed the Board that 150 items have been removed from the bill; however, it appears that the treatment of irrevocable burial trust funds under medical assistance is still in the bill.

Hansen informed the Board that the provisions relating to certificates in good standing have been removed from the bill. They will be introduced in a separate bill.

Board's Cremation Draft

Hansen informed the Board that the Department has not yet received a bill draft. He said that he and the Board have had an understanding that when a draft is received, the Board may want to hold a telephone conference meeting to discuss and approve the draft.

2001 SB 51

This bill would require certain cemetery authorities to provide burials during each season. Hansen informed the Board that it supported a similar bill during the last session. The Board received a copy of a position paper prepared by the Wisconsin/Badger State Cemetery Association.

MOTION: Pete Schils moved, seconded by Rick Unbehaun, to support SB 51, because it responds to the needs of consumers and it permits cemeteries to charge a reasonable fee to recover the costs related to providing for a burial during difficult weather conditions. Motion carried unanimously.

The Board requested that Hansen send a letter to the Senate Committee to which the bill has been assigned.

2001 SB 171

This bill would provide an exception to the requirement that each funeral establishment have a full-time licensed funeral director. Hansen said this bill is simpler than a bill that was introduced during the last session. That bill distinguished between Class A and Class B establishments.

MOTION: Peter Schils moved, seconded by Rick Unbehaun, to support SB 171, because it maintains consumer protection and it removes an unnecessary requirement that every funeral establishment have a full-time funeral director. Motion carried unanimously.

The Board requested that Hansen send a letter to the Senate Committee to which the bill has been assigned.

ADMINISTRATIVE RULES

Scope Statement

Jacquelynn Rothstein gave the Board a draft of proposed rules, dated May 4, 2001. The draft contained language, relating to embalming requirements for apprentices and continuing education requirements for funeral directors.

MOTION: Pete Schils moved, seconded by Rick Unbehaun, to approve the provision under FD 4.03, relating to continuing education. Motion carried unanimously.

MOTION: Rick Unbehaun moved, seconded by Pete Schils, to approve the provision under FD 1.075, relating to embalming requirements for apprentices. Motion carried unanimously.

Rothstein stated that she and Barbara Showers concluded that no change is required, relative to the examination rules, in order to utilize the National Board Exam.

Mark Paget inquired whether the Board had addressed the first two proposals he made to the Board in a letter to Roy Pfeffer, dated January 31, 2000.

The Board concluded that the continuing education motion stated above addresses the first proposal. To address the second proposal, the Board passed the following motion:

MOTION: Pete Schils moved, seconded by Rick Unbehaun, to request that Jacquelynn Rothstein further amend s. FD 4.03, so that a funeral director must attend a minimum of 3 hours in each of the 4 categories. The remaining 3 hours may be in any one or more categories. Also, Rothstein should eliminate the current s. FD 4.03 (5). Motion carried unanimously.

The Board reviewed the rules of several others Boards, relating to approval of instructors. Referring specifically to the real estate rules, the Board passed the following motion:

MOTION: Pete Schils moved, seconded by Bob Cress, to requested that Jacquelynn Rothstein further create rules for continuing education instructor approval, similar to the following: Instructors of continuing education programs and courses shall be approved by the Board. Instructors shall be knowledgeable in the subject which they are teaching and shall possess at least one of the following minimum qualifications: (a) Be an instructor of courses in funeral directing who is or has been engaged in the practice of teaching at an accredited institution of higher education. (b) Be a properly licensed or certified person by the Board or other governmental agency who engaged in the practice as a funeral director and has been for at least 5 years continuously engaged in such practice. (c) Be a person who, in the judgment of the Board, is qualified by experience or education, or both, to supervise a course of study. Motion carried unanimously.

EXAMINATION ISSUES

Barbara Showers, Casey Brown and Judy Mender attended this portion of the meeting. Showers discussed her memo of April 30, 2001, regarding the mechanics and timeframe for switching to the National Board Exam. The following issues were discussed:

- No rule change necessary.
- The NBE will be administered at the Milwaukee Area Technical College on June 9, 2001. The exam is offered at other mortuary schools at the time of graduation.
- The Board could use a proctored state portion of the exam or an open-book exam.
- Bob Cress summarized his discussions with David J. Benke of the State of Minnesota.
- The current Wisconsin exam is administered 4 times per year. The NBE is currently given only once a year in Wisconsin.
- Showers said it is important to provide an opportunity for people to retake the exam, if they fail it. Wisconsin candidates can also take the NBE in another state.
- The Wisconsin portion of the exam could be administered at times and locations that some other exams in the Department are administered.

MOTION: Bob Cress moved, seconded by Rick Unbehaun, to accept the NBE exam as soon as we can get the word out to candidates, to have a proctored state

portion of the exam and to administer the state portion of the exam at least 4 times per year. Motion carried unanimously.

BOARD MEMBER ACTIVITY

Bob Cress discussed his attendance at the Annual Conference of the International Conference of Funeral Service Examining Boards in Clearwater Beach, Florida, on April 6, 2001.

STANDARDS FOR EVALUATING CONVICTIONS AND PENDING CHARGES

Hansen explained his Bureau uses the standards when making decisions to grant, limit or deny a license.

MODEL PRENEED GUIDELINES, NATIONAL FUNERAL DIRECTORS ASSOCIATION

Rothstein explained her May 4, 2001, memo regarding possible changes to Wisconsin's laws, following a review of the NFDA's Model Consumer Protection Guidelines For Preneed Agreements. Rothstein's memo identifies 3 possible statutory changes. The Board informally requested that Rothstein prepare another memo that includes the current statutory language that pertains to funeral plans.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

Letter to Mark Page, Relating to Trusting Requirements.

Noted.

Letter to Kevin Hatfield, Relating to Continuing Education

Noted.

Letter from Jim Beine, Relating to Licensure and Apprenticeship

The Board informally agreed that Rothstein should send a letter to Mr. Beine, advising that he may obtain a license for 2 funeral establishments at the same location, and the apprentice will not be able to complete the 25 funeral service arrangements at Beine's funeral establishment. The apprentice would have to transfer to another establishment.

DNR Letters, Relating to Scattering Cremains

Rothstein informed the Board that she had talked to Mike Lutz, an attorney at the DNR. He advised her that scattering cremains over land would, technically, amount to littering. The DNR would not object to an exception in the statutes.

NEW BUSINESS

Willie Garrette asked the Board to advise him concerning a response to respondent in one of his cases concerning her having completed continuing education courses in Minnesota. The Board informally advised that the provider of the courses should obtain retroactive approval of the courses. Then the respondent should submit her certificate of completion.

PUBLIC COMMENTS

None.

PRESENTATION OF PROPOSED STIPULATION BY PROSECUTOR

None.

RECESS TO CLOSED SESSION

MOTION: Pete Schils moved, seconded by Bonnie Gift, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), (f), and (g), Wis. Stats., to consider the licensing or discipline of a person licensed by the Board or the investigation of charges against such a person. Specifically, to discuss the issue of case status reports, case closings, monitoring issues, extension requests, and pending applications. Motion carried unanimously by a roll call vote: Bonnie Gift-yes; Peter Schils-yes; Bob Cress-yes; Rick Unbehaun-yes; Roy Pfeffer-yes.

Open Session recessed and Closed Session convened at 12:50 p.m.

CLOSED SESSION

The Board received a copy of the Case Status Report.

The Board deliberated on a case closing, a monitoring report, an application for apprenticeship and an apprenticeship extension request.

RECONVENE IN OPEN SESSION

MOTION: Bob Cress moved, seconded by Bonnie Gift, to reconvene in Open Session at 1:30 p. m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

APPRENTICESHIP APPLICATIONS AND EXTENSION REQUESTS

Maureen Raskin

MOTION: Pete Schils moved, seconded by Bonnie Gift, to deny the application for Maureen Raskin, because her convictions are substantially related to the practice of a funeral director apprentice and because there is insufficient evidence of rehabilitation. Motion carried unanimously.

Olga Perez

MOTION: Rick Unbehaun moved, seconded by Bob Cress, to deny the request for extension of the apprenticeship, based on the number of extensions that have already been granted. and the fact that the Board's letter of November 15, 2001, stated that the Board was granting its last extension. Motion carried unanimously.

CASE CLOSING

MOTION: Pete Schils moved, seconded by Bonnie Gift, to close Case 00 FDR 021for P2, compliance gained. Motion carried with Roy Pfeffer abstaining.

MONITORING REPORT

Juan Barquet

Barquet had sent a written request for an extension of the stay of suspension of his funeral directors license.

MOTION: Rick Unbehaun moved, seconded by Bob Cress, to grant a 3 month stay of the suspension of Barquet's license with a quarterly report being due on August 1, 2001. Barquet shall request yearly stays. Motion carried unanimously.

The Board informally requested that Rick Unbehaun serve as a liaison with the Department's Monitor. The Board will take formal action at the next meeting to appoint Unbehaun as liaison.

LEGAL ACTION AGAINST THE LOEWEN GROUP

The Board agreed to table this matter until the next meeting.

ADJOURNMENT

MOTION: Bob Cress moved, seconded by Bonnie Gift, to adjourn the meeting at 1:36 p. m. Motion carried unanimously.

Next Meeting Date: July 17, 2001